S.B. CIVIL WRIT PETITION NO. 4541/2004.
(BHUPENDRA KUMAR CHAUDHARY VS. STATE & ORS.)

DATE OF ORDER : 17.10.2006.

HON'BLE MR. GOVIND MATHUR, J.

Mr. Kuldeep Mathur for the petitioner/s.
Mr. B.L. Tiwari, Dy.GA, for the respondents.

While promulgating the Rajasthan Civil Service (Revised Pay Scales) Rules, 1989, an opportunity was given the employees to exercise their option to adopt New Pay Scales up to 31.01.90. The petitioner is holding the post of Pump Driver, in Public Health and Engineering Department failed to exercise such option within the period prescribed. However, an option letter was submitted by him to the Junior Engineer, Public Health and Engineering Department at Samdari and the same was forwarded to the Assistant Engineer, Public Health and Engineering Department, Sub Division, Sivana on 10.08.1994. Subsequent thereto, a notification dated 20.11.1993 was published in Rajasthan State Gazette dated 11.08.1994 to provide one more opportunity to the employees belonging to the Ministerial, Subordinate and Class IV Cadres to opt for new pay scales under the Rules of 1989 within a period of two months from the date of publication of the notification dated 20.11.1993. The letter of option submitted by the petitioner was forwarded to the Assistant Engineer, Public Health and

Engineering Department, Siwana on 10.08.2004 was further forwarded to the Chief Accounts Officer, Public Health and Engineering Department, Jaipur in the year 1997. Accordingly, the matter was returned being submitted at a belated stage and on the count that the same does not bear any date. The Senior Personal Officer, Government of Rajasthan, Jaipur under his communication dated 19.07.1997 advised to get the date of submitting the option letter entered.

The grievance of the petitioner is that though he submitted option letter prior to 10.08.94, the respondents are not making fixation of his pay in the revised corresponding pay scales, though there was no fault on his part in not submitting the option letter in time.

A reply to the writ petition has been filed on behalf of the respondents stating therein that the petitioner failed to mention the date on his option letter and the option letter submitted by him was delayed, therefore, fixation of his pay in revised pay scale was rightly not done. While submitting so, it is admitted by the respondents that the option letter was tendered by the petitioner to the Junior Engineer, Public Health and Engineering Department, Siwana prior to 10.08.1994 and the same was with Assistant Engineer, Public Health and

Engineering Department, Division Siwana uptill its remittance to authorities concern.

Heard learned counsel for the parties.

From perusal of the aforementioned contents in writ petition and reply thereto, it is the position admitted that the option letter was submitted by the petitioner prior to 10.08.1994. The Government of Rajasthan looking to the certain demands made by the employees extended the term for submitting such option letter under the notification dated 20.11.93 published on 11.08.94 in the Rajasthan State Gazette for a period of two months i.e. up to 11.10.94. The petitioner admittedly submitted option form prior to 11.10.94, therefore, merely on the count that the Assistant Engineer, Public Health and Engineering Department, Sub Division, Siwana failed to remit the same within the period prescribed, the petitioner cannot be denied from his right to be fixed in the corresponding revised pay scales. There is no fault on part of the petitioner in remitting the option letter to the authority competent at a belated stage. As such, the denial on part of the respondents for making fixation of the petitioner's pay in revised pay scale under the Rules of 1989 is erroneous and the same, therefore, is declared illegal. The petitioner is entitled to be fixed in the

revised pay scale under the Rules of 1989.

This petition for writ, therefore, is allowed with a direction to the respondents making fixation of the petitioners pay in Rajasthan Civil Services (Revised Pay Scales) Rules, 1989 as per option submitted by him. All the arrears accruing from the fixation of the petitioners pay in revised pay scale are ordered to be paid to the petitioner within a period of six weeks from today.

(GOVIND MATHUR)J.

Anil/